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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,498	05/18/2005	Rahul K Dharmadhikary	AWL-223-2002-US	3901

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EXAMINER	
SALVATORE, LYNDA	

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/535,498	DHARMADHIKARY ET AL.	
	Examiner	Art Unit	
	Lynda M. Salvatore	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-12,16-25 and 29-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-12,16-25 and 29-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/27/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments and Inventor Declaration filed 10/31/07 have been fully considered and entered. Applicant's arguments are not found persuasive for reasons set forth herein below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3, 6-12,16-25 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griesbach, III et al., US 2004/0123939 A1 in view of Morman et al., US 2004/0091752.

Applicant argues that the prior art of Griesbach, III et al., does not teach or suggest a film layer comprising at least two layers wherein the polymers used to form each film layer are different. Applicant further argues that Griesbach, III et al., does not teach that the claimed barrier layer is formed from a low density polyethylene. With regard to the prior art Morman et at al., Applicant argues that the film of Morman et al., is microporous and would interfere with obtaining the sought after properties of the instant application. Applicant further argues that the laminate of Griesbach, III et al., contain a surfactant and the instant invention does not require the application of a surfactant. These arguments are not found persuasive.

With regard to Applicant's argument that Griesbach, III et al., does not teach or suggest a film layer comprising at least two layers wherein the polymers used to form each film layer are different, it is respectfully pointed out that Griesbach, III et al., teach joining a spun-bonded non-

woven layer having a basis weight ranging from 20-60 gsm to a multi-layer film (section 0046, 0064 and 0050). Said multi-layer film comprises a core layer comprising blends of polypropylenes and two skin layers comprising blends of polyolefins, ethylene acrylic acid etc. (sections 0050-0053). It is the position of the Examiner that the core layer comprising a blend of polypropylene would be different from the skin layers comprising blends with ethylene acrylic acid.

With regard to Applicant's argument that the film of Morman et al., is microporous and would interfere with obtaining the sought after properties of the instant application, the Examiner relied upon the Morman et al., reference to evidence that it is known in the art to form films suitable for use in laminates with the claimed low density polyethylene. The fact that Morman et al., ultimately forms microporous film is irrelevant. The Examiner maintains that absent unexpected results the polyolefins employed by Griesbach, III et al., are functionally equivalent to the low density polyethylene polymers of Morman for the desired use of forming a film and can be used interchangeably.

With regard to Applicant's argument that Griesbach, III et al., teach a surfactant treatment whereas the instant invention does not employ such a treatment, it is respectfully pointed out that Applicant's open claim language of comprising does not exclude an additional surfactant treatment.

With regard to Applicant's Inventor Declaration and comparative data, it is pointed out that Applicant's Declaration and data are directed to a three layer film laminate. Applicant's claim 1 is directed to a film layer comprising two layers. Thus, Applicant's Declaration and comparative data are not considered commensurate in scope with the claimed subject matter.

The published patent application issued to Griesbach et al., teaches a non-woven film laminate having barrier properties (title and abstract). Said laminate resists penetration by liquids and viruses (abstract). Griesbach et al., teach joining a spun-bonded non-woven layer having a basis weight ranging from 20-60 gsm to a multi-layer film (section 0046, 0064 and 0050). Said fabric layer is made with polyethylene or polypropylene (section 0059). Said multi-layer film comprises a core layer comprising blends of polypropylenes and two skin layers comprising blends of polyolefins, ethylene acrylic acid etc. (sections 0050-0053). Said film layers have a basis weight less than 20 gsm (section 0074). Griesbach et al., teach positioning the multi-layer film between two outer non-woven layers (section 0046).

With regard to the adhesively laminated limitations, Griesbach et al., teach that it is known in the art to use an adhesive to join the non-woven layer to the film (section 0012). Griesbach et al., does not teach the claimed amount of adhesive, however, it is the position of the Examiner that it would be obvious to one of ordinary skill in the art at the time the invention was made to optimize the amount of dry adhesive as a function of adhesiveness. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980)

With regard to the coextruded limitation, Griesbach et al., teach that the multi-layer film is coextruded (section 0070).

Griesbach et al., fails to teach a barrier layer comprising low density polyethylene, however, the patent issued to Morman et al., teach a film comprising either linear low density polyethylene or low density polyethylene (section 0044). Said film is employed in a laminate structure where liquid impermeability properties are desired (abstract). It appears that the

polyolefins employed by Griesbach et al., are functionally equivalent to the low density polyethylene polymers of Morman for the desired use of forming an impermeable film.

Therefore, absent unexpected results, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art at the time the invention was made to select a known equivalent polyolefin material as a function of availability, cost of ease of production.

With regard to the limitations pertaining to the high peel strength, improved barrier properties, being ethylene oxide sterilizable and high wet peel strength not being diminished but enhanced on aging of the composite, it is the position of the Examiner that the composite provided by the combination of Griesbach et al., in view of Morman would exhibit the claimed properties. Support for said presumption is found in the use of like materials and processes used to form a composite laminate for the intended barrier purposes. Applicant is invited to claim otherwise.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 21, 2008
/Lynda Salvatore/
Primary Examiner
Art Unit 1794